

pay the required wage rate or has provided an attestation which is materially false, the judge shall order that the employer be disqualified from employing F-1 students.

(e) In the event that the Administrator's determination(s) of wage violation(s) is based upon a wage determination obtained by the Administrator from ETA during the investigation (paragraph (b)(6) of appendix A of subpart J of this part), the administrative law judge shall not determine the prevailing wage rate *de novo*, but shall, based on the evidence (including the ETA administrative record), either accept the wage determination or vacate the wage determination. If the wage determination is vacated, the administrative law judge shall remand the case to the Administrator, who may then refer the matter to ETA and, upon the issuance of a new wage determination by ETA, resubmit the case to the administrative law judge. Under no circumstances shall source data obtained in confidence by ETA, or the names of establishments contacted by ETA, be submitted into evidence or otherwise disclosed.

(f) The administrative law judge shall not render determinations as to the legality of a regulatory provision or the constitutionality of a statutory provision.

(g) The decision shall be served on all parties in person or by certified or regular mail.

§ 655.1045 Secretary's review of administrative law judge's decision.

(a) Any party desiring review of the decision and order of an administrative law judge shall petition the Secretary to review the decision and order. To be effective, such petition must be received by the Secretary within 30 calendar days of the date of the decision and order. Copies of the petition shall be served on all parties and the administrative law judge.

(b) No particular form is prescribed for any petition for the Secretary's review permitted by this subpart. However, any such petition shall:

- (1) Be dated;
- (2) Be typewritten or legibly written;
- (3) Specify the issue or issues stated in the administrative law judge deci-

sion and order giving rise to such petition;

(4) State the specific reason or reasons why the party petitioning for review believes such decision and order are in error;

(5) Be signed by the party filing the petition or by an authorized representative of such party;

(6) Include the address at which such party or authorized representative desires to receive further communications relating thereto; and

(7) Attach copies of the administrative law judge's decision and order, and any other record documents which would assist the Secretary in determining whether review is warranted.

(c) Whenever the Secretary determines to review the decision and order of an administrative law judge, a notice of the Secretary's determination shall be served upon the administrative law judge and all parties within 30 calendar days after the Secretary's receipt of the petition for review.

(d) Upon receipt of the Secretary's notice, the Office of Administrative Law Judges shall within 15 calendar days forward the complete hearing record to the Secretary.

(e) The Secretary's notice may specify:

- (1) The issue or issues to be reviewed;
- (2) The form in which submissions shall be made by the parties (e.g., briefs);
- (3) The time within which such submissions shall be made.

(f) All documents submitted to the Secretary shall be filed with the Secretary of Labor, U.S. Department of Labor, Washington, DC 20210, Attention: Executive Director, Office of Administrative Appeals, room S-4309. An original and two copies of all documents shall be filed. Documents are not deemed filed with the Secretary until actually received by the Secretary. All documents, including documents filed by mail, must be received by the Secretary either on or before the due date.

(g) Copies of all documents filed with the Secretary shall be served upon all other parties involved in the proceeding. Service upon the Administrator shall be in accordance with § 655.1030(b) of this part.

(h) The Secretary's final decision shall be issued within 180 calendar days from the date of the notice of intent to review. The Secretary's decision shall be served upon all parties and the administrative law judge.

(i) Upon issuance of the Secretary's decision, the Secretary shall transmit the entire record to the Chief Administrative Law Judge for custody pursuant to § 655.1050 of this part.

§ 655.1050 Administrative record.

The official record of every completed administrative hearing procedure provided by subpart K of this part shall be maintained and filed under the custody and control of the Chief Administrative Law Judge. Upon receipt of a complaint seeking review of the final agency action in a United States District Court, the Chief Administrative Law Judge shall certify the official record and shall transmit such record to the clerk of the court.

§ 655.1055 Notice to the Employment and Training Administration (ETA) and the Attorney General (AG).

(a) The Administrator shall notify the Attorney General and ETA of the final determination of a violation by an employer, and of the disqualification of the employer from employing F-1 students, upon the earliest of the following events:

(1) When the Administrator issues a written determination that the employer has committed a violation, and no timely request for hearing is made by the employer pursuant to § 655.1020 of this part; or

(2) When, after a hearing on a timely request pursuant to § 655.1020 of this part, the administrative law judge issues a decision and order finding a violation by the employer; or

(3) When, although the administrative law judge found that there was no violation by the employer, the Secretary, upon subsequent review upon a timely request pursuant to § 655.1045 of this part, issues a decision finding that a violation was committed by the employer.

(b) The Attorney General, upon receipt of notification from the Administrator pursuant to paragraph (a) of this section, shall take appropriate action

to cancel work authorization to F-1 students for employment with that employer, and to prevent issuance of new work authorization with respect to that employer.

(1) The Administrator's notice to the Attorney General shall, to the extent known from the investigation, specify the school(s) which issued work authorization for the F-1 students who were employed by the employer. The Attorney General shall inform the appropriate authority at each of the specified school(s) that any work authorization(s) issued for F-1 student(s) to be employed by that employer shall immediately be revoked, and that no new work authorization shall be issued for employment of F-1 student(s) by that employer. The Attorney General shall, in addition, take any other appropriate action to effectuate the disqualification of that employer through revocation of work authorization(s) at any other school(s) that may authorize employment with the disqualified employer.

(2) A copy of the Administrator's notice to the Attorney General may also be sent by the Administrator to each school identified in the notice as a school from which F-1 students have been employed by the disqualified employer. Such copy of the Administrator's notice, upon receipt by the school, shall constitute sufficient notice for the DSO to revoke work authorization(s) and to refuse to issue new work authorization(s) for employment of F-1 students by that employer. Any school which issued or may issue work authorization(s) for employment of any F-1 student(s) by the employer, but which was not known by the Administrator to have done so, or notified by copy of the Administrator's decision, shall comply with any instructions from the Attorney General regarding revocation and nonissuance of work authorization for employment of any F-1 student(s) by the employer. In addition, any school (whether or not it received a copy of the Administrator's notice to the Attorney General regarding the employer) shall revoke F-1 work authorization(s) and refuse to issue new F-1 work authorization(s) for any employer which is identified as a